

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DARREN IRVINE

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:23-cv-40-DPJ-FKB

MAJOR “Unknown” McCARTHY, et al.

DEFENDANTS

ORDER

Pro se Plaintiff Darren Irvine is an inmate currently incarcerated at the Lauderdale County Jail in Meridian, Mississippi. Irvine is proceeding *in forma pauperis*, and brings this Complaint challenging the conditions of his confinement while housed at Lauderdale County Jail pursuant to 42 U.S.C. § 1983.¹ In his Complaint [1], Plaintiff names as Defendants Major “Unknown” McCarthy, Bille Sollie, Nurse Mary Joe “Unknown,” and Nurse Daphne “Unknown,” and adds as a Defendant Wendy “Last Name Unknown,” Nurse Practitioner, in his Response [7]. Having reviewed and liberally construed Plaintiff’s pleadings, it is hereby,

ORDERED:

1. That the Clerk of Court is directed to issue a *Notice of Lawsuit and Request to Waive Service of a Summons* for **Defendants Major “Unknown” McCarthy, Bille Sollie, Nurse Mary Joe “Unknown,” Nurse Daphne “Unknown,” and Nurse Practitioner Wendy “Last Name Unknown.”** The Clerk is directed to attach a copy of the Complaint [1], a copy of the Order [6] entered on February 21, 2023, a copy of Plaintiff’s Response [7] filed on March 13, 2023, a copy of the Court’s Order [8] entered on March 30, 2023, and a copy of this Order to the *Notice* and accompanying *Waiver of the Service of Summons* form and send by first-class mail to

¹ On March 31, 2023, an Order [9] was entered severing Irvine’s habeas claims and directing the Clerk to open a new § 2241 civil action for Irvine to pursue his habeas claims in that case. *See Irvine v. McCarthy*, Civil Action No. 3:23-cv-220-KHJ-MTP.

Attorney Lee Thaggard; Barry, Thaggard, & May, LLP; Post Office Box 2009; Meridian, Mississippi 39302-2009 for Defendants Major “Unknown” McCarthy and Billie Sollie; and to Nurse Mary Joe, Lauderdale County Detention Facility, 2001 5th Street, Meridian, Mississippi 39301; Nurse Daphne, Lauderdale County Detention Facility, 2001 5th Street, Meridian, Mississippi 39301; and Nurse Practitioner Wendy, Lauderdale County Detention Facility, 2001 5th Street, Meridian, Mississippi 39301. Defendants are directed to file a signed *Waiver* form or a Response, within 30 days.

If counsel is receiving this Order and is unable to execute a *Waiver* for a Defendant because the Defendant is not employed by the entity that counsel represents or because, after due diligence, counsel is unable to identify the Defendant from the *Notice* and Complaint, a Response should be filed. The Response, from counsel, should contain the name of the Defendant and, if previously employed, by the entity counsel represents, the Response should contain the Defendant’s last known address. If the Response contains a last known address it is directed to be filed under seal.

2. That the Defendants shall file an answer or other responsive pleading in this cause in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court.

3. That as provided for in the Federal Rules of Civil Procedure, discovery is stayed until further order of this Court.

4. That subpoenas shall not be issued except by order of the Court. The United States District Clerk shall not issue subpoenas upon request of the *pro se* litigant but shall instead forward the request to the Magistrate Judge assigned to this cause for review. Plaintiff shall submit all request for the issuance of subpoenas to the Magistrate Judge’s office for review.

Plaintiff should understand that this Order allowing process to issue against the above-named Defendants does not reflect any opinion of this Court that the claims contained in the Complaint will or will not be determined to be meritorious.

It is Plaintiff's responsibility to prosecute this case. Failure to advise this Court of a change of address or failure to comply with any Order of this Court will be deemed as a purposeful delay and contumacious act by Plaintiff and may result in the dismissal of this case.

SO ORDERED AND ADJUDGED this the 3rd day of April, 2023.

s/ F. Keith Ball
UNITED STATES MAGISTRATE JUDGE